

House File 831 - Reprinted

HOUSE FILE 831
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 223)

(As Amended and Passed by the House March 25, 2021)

A BILL FOR

1 An Act relating to the expungement of convictions for certain
2 class "D" felonies, and related convictions, and to the
3 definition of a conviction relating to the possession,
4 receipt, and transportation of firearms, offensive weapons,
5 and ammunition.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 724.25, Code 2021, is amended to read as
2 follows:

3 **724.25 Felony, conviction, and antique firearm defined.**

4 1. As used in [section 724.26](#), the word "*felony*" means
5 any offense punishable in the jurisdiction where it occurred
6 by imprisonment for a term exceeding one year, but does not
7 include any offense, other than an offense involving a firearm
8 or explosive, classified as a misdemeanor under the laws of the
9 state and punishable by a term of imprisonment of two years or
10 less.

11 2. As used in [section 724.26](#), "*conviction*" does not include
12 a deferred judgment that has been expunged pursuant to section
13 907.3, subsection 1, paragraph "c", or any conviction that
14 has been expunged or for which a person has been pardoned
15 or has had the person's rights restored in accordance with
16 section 724.27 unless such expungement, pardon, or restoration
17 expressly provides that the person shall not ship, transport,
18 possess, or receive firearms, offensive weapons, or ammunition.

19 ~~2.~~ 3. As used in [this chapter](#), an "*antique firearm*"
20 means any firearm, including any firearm with a matchlock,
21 flintlock, percussion cap, or similar type of ignition system,
22 manufactured in or before 1898. An antique firearm also
23 means a replica of a firearm so described if the replica is
24 not designed or redesigned for using rimfire or conventional
25 centerfire fixed ammunition or if the replica uses rimfire or
26 conventional centerfire fixed ammunition which is no longer
27 manufactured in the United States and which is not readily
28 available in the ordinary channels of commercial trade.

29 Sec. 2. NEW SECTION. 901C.4 Class "D" felony —
30 expungement.

31 1. Upon application of a defendant convicted of a class
32 "D" felony offense listed in subsection 2, or convicted under
33 prior law of an offense comparable to a class "D" felony listed
34 in subsection 2, the court shall enter an order expunging the
35 conviction if the defendant has proven all of the following:

1 *a.* More than ten years have passed since the discharge of
2 the defendant's sentence.

3 *b.* All conditions of the defendant's parole or probation
4 have been satisfied.

5 *c.* The defendant has paid all court costs, fees, fines,
6 restitution, and any other financial obligations ordered by the
7 court or assessed by the clerk of the district court.

8 *d.* The defendant has not previously been granted a deferred
9 judgment for a prior felony.

10 *e.* The defendant has not been convicted of or received a
11 deferred judgment for a felony offense committed subsequent to
12 the conviction for which the defendant is seeking expungement.

13 *f.* The defendant has not been convicted of or received
14 a deferred judgment for a misdemeanor offense of violence
15 committed subsequent to the conviction for which the defendant
16 is seeking expungement.

17 *g.* The defendant is not currently incarcerated or serving a
18 period of probation for any criminal offense, and the defendant
19 has no pending criminal charges.

20 *h.* The defendant is not required to register as a sex
21 offender under chapter 692A.

22 2. A conviction for the following class "D" felonies shall
23 be expunged if all of the conditions specified in subsection 1
24 are satisfied:

25 *a.* A conviction for violations involving excursion gambling
26 boats and gambling structures under section 99F.15, subsection
27 4.

28 *b.* A conviction for unlawful betting where the potential
29 winnings from the bet exceed one thousand dollars in value
30 under section 99F.15, subsection 6, paragraph "b".

31 *c.* A conviction for forgery or fraud related to lottery
32 tickets, lottery equipment or materials, or lottery activities
33 under section 99G.36.

34 *d.* A conviction for the manufacture, delivery, or possession
35 with the intent to manufacture or deliver fifty kilograms or

1 less of marijuana or involving flunitrazepam under section
2 124.401, subsection 1, paragraph "d".

3 e. A conviction for possession with the intent to
4 manufacture a controlled substance under section 124.401,
5 subsection 4.

6 f. A conviction for knowingly or intentionally possessing
7 a controlled substance under section 124.401, subsection 5,
8 unnumbered paragraph 1, when the person has previously been
9 convicted two or more times of violating chapter 124, 124B, or
10 453B, or chapter 124A as it existed prior to July 1, 2017.

11 g. A conviction for gatherings where controlled substances
12 are unlawfully used under section 124.407, subsection 2.

13 h. A conviction for a third or subsequent offense of
14 operating while under the influence of alcohol or a drug or
15 while having an alcohol concentration of .08 or more under
16 section 321J.2, subsection 2, paragraph "c".

17 i. A conviction for a violation involving a taxable
18 substances tax stamp, label, or official insignia under section
19 453B.12, subsection 2, 3, or 4.

20 j. A conviction for a conspiracy to commit a felony other
21 than a forcible felony under section 706.3, subsection 2.

22 k. A conviction for violating a custodial order under
23 section 710.6, subsection 1.

24 l. A conviction for burglary in the third degree under
25 section 713.6A, subsection 1.

26 m. A conviction for theft in the second degree under section
27 714.2, subsection 2.

28 n. A conviction for fraudulent practices in the second
29 degree under section 714.10.

30 o. A conviction for intellectual property counterfeiting in
31 the second degree under section 714.26, subsection 2, paragraph
32 "b".

33 p. A conviction for a computer and spyware offense causing
34 pecuniary losses exceeding one thousand dollars under section
35 715.7, subsection 2.

- 1 *q.* A conviction for forgery under section 715A.2, subsection
2 2, paragraph "a".
- 3 *r.* A conviction for criminal mischief in the second degree
4 under section 716.4.
- 5 *s.* A conviction for trespass under section 716.7, subsection
6 2, paragraph "a", subparagraph (6).
- 7 *t.* A conviction for a second or subsequent violation of food
8 operation trespass under section 716.8, subsection 8, paragraph
9 "b".
- 10 *u.* A conviction for railroad vandalism in the fourth degree
11 under section 716.10, subsection 2, paragraph "d".
- 12 *v.* A conviction for a third offense of illegal gaming in the
13 fourth degree under section 725.7, subsection 2, paragraph "a",
14 subparagraph (3).
- 15 *w.* A conviction for a second offense of illegal gaming in
16 the third degree under section 725.7, subsection 2, paragraph
17 "b", subparagraph (2).
- 18 *x.* A conviction for a first offense of illegal gaming in the
19 second degree under section 725.7, subsection 2, paragraph "c",
20 subparagraph (1).
- 21 3. The application shall be filed in the criminal court
22 case in which the conviction being sought to be expunged was
23 entered.
- 24 4. The county attorney for the county in which the
25 conviction was entered shall be given notice of the
26 application, and an order of expungement shall not be entered
27 until the state has been given notice and the opportunity to
28 object on the grounds that the applicant does not satisfy all
29 of the conditions in subsection 1.
- 30 5. A person shall be granted an expungement of a conviction
31 under this section one time in the person's lifetime. However,
32 the one application may request the expungement of more than
33 one conviction if the convictions were entered in the same
34 court file and arose from the same transaction or occurrence
35 and the convictions are for criminal offenses that are

1 eligible to be expunged under either this section or section
2 901C.3. The expungement of a misdemeanor conviction under this
3 subsection shall not be considered an expungement under section
4 901C.3 for purposes of section 901C.3, subsection 3.

5 6. No order of expungement shall be entered until at least
6 thirty days after an application has been filed.

7 7. The court record of the expunged conviction is a
8 confidential record exempt from public access under section
9 22.7 but shall be made available by the clerk of the district
10 court upon court order.

11 8. Notwithstanding section 692.2, after receipt of notice
12 from the clerk of the district court that a conviction has been
13 expunged under subsection 1, the record of conviction shall be
14 removed from the criminal history data files maintained by the
15 department of public safety if such a record was maintained in
16 the criminal history data files.

17 9. The supreme court may prescribe rules governing the
18 procedures applicable to the expungement of a criminal
19 conviction under this section.

20 10. This section applies to a class "D" felony conviction
21 entered prior to, on, or after July 1, 2021.